

REMARKS

Pursuant to the present amendment, claim 27 has been amended and new claims 35-42 have been added. Claims 10-26 have been withdrawn from consideration. Thus, claims 1-2, 4-9, 27-31 and 33-42 are currently under consideration in the present application. No new matter has been introduced by way of the present amendment.

In the Office Action, claims 1-2 and 4-9 were allowed. Claims 27-31, 33 and 34 were rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Yu (U.S. Patent No. 6,507,078 B1). Applicants respectfully traverse the Examiner's rejections.

Pursuant to the present amendment, independent claim 27 has been amended to recite that the extensions formed on the upper polysilicon portion of the gate electrode are metal extensions. This embodiment of the present invention is disclosed at, for example, page 16, lines 7-10. As thus amended, it is respectfully submitted that Yu does not anticipate pending claim 27. In Yu, the extensions 234 (see Figure 6) are polysilicon, not a metal as now recited in amended claim 27. For at least this reason, it is respectfully submitted that Yu does not anticipate pending claims 27-31 and 33-34.

Moreover, with respect to any alleged obviousness issue, the Yu patent is not prior art to the present application in the context of an obviousness analysis under 35 U.S.C. § 103. More specifically, according to MPEP § 706.02(I)(1), "effective November 29, 1999, subject matter which was prior art under former 35 U.S.C. 103 via 35 U.S.C. 102(e) is now disqualified as prior art against the claimed invention if that subject matter the claimed invention 'were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.'" The present application was filed after November 29, 1999. Furthermore, the present application and the Yu patent were, at the time the present invention was made, owned by the same entity or subject to an obligation of assignment to the same entity, namely Advanced Micro Devices. Thus, Applicants respectfully submit that the Yu patent is not

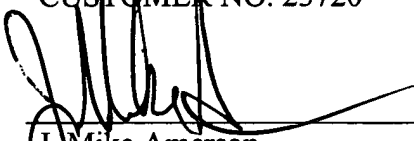
available as prior art in any obviousness determination. Thus, it is respectfully submitted that claims 27-31 and 33-34 are in condition for allowance.

New independent claim 35 is presented to further define another aspect of Applicants' invention. More specifically, new claim 35 includes the limitation that the transistor have an etch stop layer covering at least a portion of the sidewalls of the gate electrode. This aspect of the invention is discussed at, for example, page 16, line 22 – page 18, line 4, and Figures 3a-3c. In one embodiment, this etch stop layer 230 is comprised of a thermally grown layer of silicon dioxide. There is simply no disclosure or suggestion of such an etch stop layer covering at least a portion of the sidewalls of the gate electrode disclosed in Yu. Accordingly, it is respectfully submitted that Yu does not anticipate new claims 35-42. Moreover, as set forth above, the Yu patent is not prior art to the present application under any obviousness analysis. Thus, it is respectfully submitted that new claims 35-42 are in condition for allowance.

For the aforementioned reasons, it is respectfully submitted that all pending claims are in condition for allowance. The Examiner is invited to contact the undersigned attorney at (713) 934-4055 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,

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